

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

FILED

2001 DEC -7 AM 9:35

IN RE:

Evangelina Diaz,

**ENTERED**

DEC 12 2001

**K.E. P.**

Debtor.

C/A No. 01-11798-W

**ORDER**

Chapter 7

THIS MATTER came before the Court for hearing on a Rule to Show Cause requiring Evangelina Diaz ("Debtor") and her attorney to show cause, if they could, why this case should not be dismissed with prejudice, or why sanctions should not be imposed.

The Court notes that Debtor filed two previous chapter 13 petitions, C/A No. 00-06796-W and C/A No. 01-05774-W. The Court dismissed her first case, 00-06796-W, on February 20, 2001 upon Debtor's failure to catch up plan payments according to her agreement with the Trustee. The Court dismissed her second case, 01-05774-W, on July 11, 2001 for a failure to comply with filing requirements and the Local Rules. The second dismissal order prohibited Debtor from filing any further bankruptcy petition for a period of 180 days from July 11, 2001.

Despite a clear and effective Order to the contrary, Debtor then filed her third petition on November 5, 2001 within the period when this Court's Order prohibits her filing any further bankruptcy petition. Clearly, that action was violative of the court's Order of July 11, 2001, and Debtor's counsel has informed the Court that his client understands that she is currently not permitted to file a bankruptcy petition.

In instances where the clear and unambiguous order of this Court which prohibits refiling of bankruptcy is violated, this Court believes the bar to refiling should be extended and that Debtor's counsel should not be able to retain any compensation or retainer paid to him for

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services in furtherance of such violation. However, in this particular case, Debtor's counsel informed the Court that his firm received no compensation for its services as Debtor's retainer check was dishonored by her bank for insufficient funds. Having considered the matter, the Court therefore,

**ORDERS**, that this case is dismissed and the debtor is barred from filing a bankruptcy petition until April 15, 2002.

**AND IT IS SO ORDERED.**

Columbia, South Carolina,  
December 6, 2001.

  
UNITED STATES BANKRUPTCY JUDGE

**CERTIFICATE OF MAILING**

The undersigned deputy clerk of the United States  
Bankruptcy Court for the District of South Carolina hereby certifies  
that a copy of the document on which this stamp appears  
was mailed on the date listed below to: \_\_\_\_\_

**DEC 12 2001**

DEBTOR, DEBTOR'S ATTORNEY, TRUSTEE

**KIRK E. PORTH**

Deputy Clerk

- All Parties